

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

196
ADG FM
2

UNITED STATES
DEPARTMENT OF AGRICULTURE
Soil Conservation Service

FIELD MEMORANDUM SCS #1087



Re: Exchanges of Title lll Land
With Private Owners and Wit
Subdivisions or Agencies of
State Governments.

Date: April 2, 1943

TO ALL RANKING FIELD OFFICERS:

1. Legislation

The Act of July 28, 1942 (Public Law No. 683, 77th Congress, 2nd Session), amended section 32 (c), Title lll, of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (7 U.S.C. § 1011), by adding the following proviso at the end of the first sentence: "Provided, however, That an exchange may be made with private owners and with subdivisions or agencies of State Governments in any case where the Secretary of Agriculture finds that such exchange would not conflict with the purposes of the Act, and that the value of the property received in exchange is substantially equal to that of the property conveyed."

2. General

- a. In administering the program of land utilization and land conservation authorized under Title lll, instances may arise where exchanges of privately owned or publicly owned non-Federal land for Title lll land would be in furtherance of the program.

In cases where Service personnel believe an exchange would be desirable and the owner of the non-Federal land has not applied for exchange, Service personnel may, with the approval of the Regional Chief of Operations, suggest the exchange to the owner.

- b. It is not contemplated that a large number of exchanges will develop on any one project, since the land acquired was purchased to accomplish a definite purpose, and, therefore, to transfer any large acreage out of Federal ownership would be inconsistent with the purpose for which it was originally purchased.
- c. Applications which would involve land set apart and reserved from the Public Domain for use, administration, and disposition in accordance with Title lll will not be accepted at this time. The procedure governing such exchanges will be issued at a later date.

3. Policy

- a. Exchanges will be made only to accomplish desirable adjustments from the standpoint of the broad objectives of the program or to solve administrative problems in connection with the management of Title lll land.
- b. Exchanges will not be made simply to "block up" land under Federal ownership. This is not intended to preclude exchanges where it is desirable to block up community pastures or management units within projects for which solid Federal ownership is necessary to accomplish the project objectives. Nor is it intended to preclude exchanges needed to solve serious maladjustments associated with occupancy of isolated tracts within an area of largely Federal ownership.
- c. Exchanges may be made to solve serious maladjustments, associated with the occupancy of isolated tracts, regardless of ownership of adjoining land, if sufficient safeguards exist against occupancy of other tracts in the same vicinity, thus preventing the recurrence of the problem.
- d. Exchanges of land on which a tenant or other person is residing and who would require assistance from the Government in relocating will not be considered. Land offered in exchange for Title lll land must be free of all occupancy, or definite arrangements made for the relocation of occupants by the applicant before any exchange will be approved by the Chief, S.C.S.
- e. Tracts or portions of tracts, which because of location, improvements, availability of water, type of soil or other factors, are suitable for use in private ownership may be exchanged for other land which qualifies for acquisition, if in furtherance of the adjustment program for the area.
- f. Land not eligible for purchase under Title lll, or the program of purchase approved by the Secretary of Agriculture for the project, is not eligible for acquisition through exchange.
- g. Title lll land will not be exchanged when improvements, such as stock water reservoirs, improved springs or wells, located thereon, are necessary for the proper utilization of adjacent land not owned by the person to whom Title lll land is to be transferred under the exchange.
- h. The value of the land offered to the Government, based upon an appraisal made by Service personnel under the direction of the Land Acquisition Division, must be at least 95 percent of the current appraised value of the Title lll land to be exchanged.
- i. There will be reserved on behalf of the United States, all coal, oil, gas and other minerals which are owned by the United States, except minerals such as sand, gravel, stone, etc., required in the operation or improvement of the land for farm or ranch purposes.
- j. Reservations and exceptions in connection with land to be conveyed to the United States will be handled in accordance with Directions for Purchase approved for the project.

4. Procedure

a. Applications for Land Exchange

- A. Applications for land exchanges may be approved by the Chief, S. C. S., subject to final acceptance by the Secretary.

Land owners should be discouraged from filing applications if it is clear that the exchange would not be approved. If the land owner wishes to file an application in any case, the application should be handled in the regular way. The State Conservationist should disapprove applications which are not in accordance with the policies established herein.

- B. Upon receipt of an oral or written request for an exchange of land, the Project Conservationist (or Work Unit Leader) (1) will obtain complete tract ownership data on Form SCS 440 covering the land offered for exchange, and (2) will review the project file covering the Title III land requested, so as to obtain complete data as to the interests owned by the Government.

If it appears that the application meets all requirements of policy, an original and four copies of Form SCS 602, "Application for land Exchange", will be prepared for the signature of the applicant, but before signing, the applicant will be informed that filing of the application with the Government shall not be construed as indicating in any way approval or acceptance of the application.

He will also be informed of the contents of the application, and specifically that he will be required (1) to publish at his own expense notice of his application for land exchange, as directed by the Soil Conservation Service; (2) to furnish such evidence of title as may be required by the Secretary of Agriculture; (3) to pay and satisfy of record all taxes, liens and encumbrances; (4) to pay any other costs incidental to the transfer of his title to the United States; (5) to convey acceptable title to his property; and (6) to pay for and affix the necessary revenue stamps to his deed.

- C. When an exchange of Title III land for privately-owned or publicly owned non-Federal land is considered by a Project Conservationist to be in furtherance of the program and in accordance with the policies established herein, but which has not been suggested by the land owner, the Project Conservationist will submit through channels for approval by the Regional Chief of Operations, a statement giving in detail his reasons for recommending such exchange, and will attach thereto a report prepared substantially as outlined in paragraph 4 b A, Tract Ownership Data covering the applicant's land and complete data as to the interest owned by the Government in the Title III land.

If his recommendations are approved, the Project Conservationist will then contact the owner of the land proposed for exchange. If the owner agrees, the same procedure as outlined in the second and third paragraphs of B above will be followed.

4. a. D. Requests for exchange originating on projects being managed by a State agency, for which the Service is custodian, will be handled in accordance with the above procedure. The State Conservationist will be responsible for the proper handling of applications.

E. The Government will elect to obtain an abstract or certificate of title at its expense only under special circumstances and when approved by the Regional Conservator (see paragraph 25910 Land Acquisition Section of the Manual).

b. Preparation and Routing of Applications for Land Exchange

A. The Project Conservationist will:

1. Prepare a report which will include (a) a discussion of the present and potential use of the applicant's land and the Title lll land requested in exchange; (b) his opinion as to their relative values; (c) a list of the improvements on the applicant's land and a list of the improvements on the Government's land, showing the original cost of all improvements placed thereon by the Government; (d) a suitable map showing the location of the Title lll land, the applicant's land and the surrounding operating units, and the ownership in each unit, and (e) his recommendations.
2. Attach to his report (a) the signed Application for Land Exchange, (b) Tract Ownership Data covering the Applicant's land, (c) Tract Map prepared on Form SCS 425, of the applicant's land, (d) Tract Map of the Title lll land requested in exchange, and (e) authority for signing the application in the event the applicant is a corporation, agent for the applicant, subdivision or agency of State government, etc.
3. Fasten the material listed in one and two above in a manila folder which hereinafter will be referred to as the "assembly". As the case proceeds through channels for consideration, the additional material required under this procedure will be added to the assembly.
4. Submit the assembly through regular channels to the Regional Office in duplicate.

B. The Regional Chief of Land Management Division will review the assembly to determine whether it meets all requirements of policy and the exchange would be administratively desirable.

The Regional Chief of Land Acquisition Division will review the assembly to determine whether there are any special land acquisition problems involved.

The Regional Chiefs of Land Management and Land Acquisition Divisions will add their recommendations to the assembly and submit it to the Regional Chief of Operations.

4. b. B. If the exchange appears to be feasible and advisable, the Regional Chief of Operations will request that the land be appraised. Upon completion of the appraisal, the Appraisal Report will be added to the assembly. If, upon review of the Appraisal Report, the exchange still appears desirable, the Chief of Operations will submit the assembly to the Regional Conservator with his recommendations.

Should the Appraisal Report disclose inequalities in values, the Chief of Operations will cause the applicant to be so notified, through channels, and afford him an opportunity to modify his application so as to bring the exchange within the provisions of the law.

- C. The Regional Conservator, if he approves of the exchange, will forward the original assembly to the Washington Office with his recommendations.
- D. The Chief of Land Management Division will review the assembly as to administrative desirability, and whether all requirements of law, policy and procedure have been met. He will add his recommendations to the assembly.

The Chief of Land Acquisition Division will determine whether the values are reasonable and the Government's interests are protected, and add his recommendations.

The Chief of Operations will determine whether the exchange is desirable and will submit the application to the Chief of the Service for approval.

- E. If the Chief, S.C.S., determines that the exchange is desirable, he will approve the application subject to final acceptance by the Secretary.
- F. After an application has been approved by the Chief, S.C.S., the Project Conservationist will be directed to notify the applicant that his application has been approved, subject to the results of publication of notice of the exchange, compliance with the terms and conditions of the application, and final acceptance by the Secretary. The applicant will be requested by the Project Conservationist to publish notice of the exchange as required in Paragraph 4 c below.

c. Publication of Land Exchange Notice

- A. Within 30 days from the date of the notice to the applicant that his Application for Land Exchange has been approved, the applicant will begin publication of notice of the exchange at his own expense, in a newspaper having general circulation in the County in which the land selected is situated.
- B. The notice must be published once each week for four consecutive weeks.
- C. The Project Conservationist will prepare the notice for the applicant. The notice will be substantially as follows:

LAND EXCHANGE NOTICE

Notice is hereby given that the undersigned has applied for an exchange of land administered under Title lll of the Bankhead-Jones Farm Tenant Act within the _____ Land Utilization Project. The undersigned offers the Government

(Description of offered land)

_____ County, State of _____, containing _____ acres, and in exchange therefor has requested title to the _____

(Description of selected land)

_____ County, State _____, containing _____ acres. The purpose of this notice is to allow all persons having bonafide objections to such an exchange an opportunity to file their protestes with the Project Conservationist, Soil Conservation Service,

(address)

on or before the 10th day following the date of the last publication thereof.

First publication _____
(date)

Last publication _____
(date)

(Applicant)

(Post Office Address)

4. c. C. Proof of publication will consist of a copy of the publication attached to an affidavit of the publisher or an employee of the newspaper giving dates of publication. The proof of publication must be transmitted to the Project Conservationist.
- D. No action will be taken to consummate an exchange until 10 days after the date of the last publication of the notice.
- E. If no protest is received, the Project Conservationist will so notify the applicant. Copies of this notice will be sent, through channels, to the Regional Office for the attention of the Regional Chief of Land Acquisition Division and direct to the Chief of Land Acquisition Division, Washington.

d. Protest

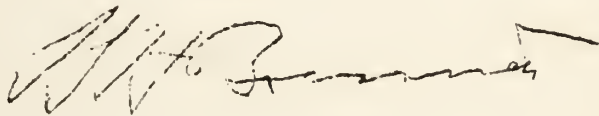
In the event a protest is received as a result of publication, or otherwise, objecting to the proposed exchange, the protest in writing and properly signed, together with a report thereon by the Project Conservationist will be forwarded, through channels, to the Chief, S.C.S., for review and disposition. The Project Conservationist will inform the applicant of this action.

e. Appeal

In case of disapproval of an application, the applicant has the right to file an appeal, in writing, with the Project Conservationist. The appeal will be forwarded, through channels, for consideration at the next highest administrative level above that in which the application was disapproved.

f. Processing Land Exchanges

The details of the procedure for processing land exchanges is given in Paragraph 25910 of the Land Acquisition Section of the Manual.



Chief

